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| In re Application of | : | |
| KOMIYAMA, Shunji et al. | : | DECISION ON |
| Application No.: 10/576,084 | : | |
| PCT No.: PCT/JP04/15258 | : | PETITION |
| Int. Filing Date: 15 October 2004 | : | |
| Priority Date: 17 October 2003 | : | UNDER 1.47(a) |
| Attorney's Docket No.: 2593-0164PUS1 | : | |
| For: Polymer Alloy, Crosslinked Object And Industrial Part : | : | |

This is in response to the petition under 37 CFR 1.47(a), filed 12 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Takashi Toya. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 15 October 2004, applicants filed international application PCT/JP04/15258, claiming a priority date of 17 October 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 17 April 2006.

On 14 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 12 December 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration are required.

On 12 February 2007 applicant filed the present petition accompanied by a declaration executed by inventors Shinji Komiyama, Hiromi Numata, Seiji Yokoyama and Haruhiko Fujita, a declaration by Mr. Hiroshi Yagi and a copy of an undelivered envelope mailed by Mr. Hiroshi Yagi to non-signing inventor Takashi Toya.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the missing inventor, (3) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor, and (4) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

As to item (1), in view of applicants' authorization, the petition fee of \$200.00 under 37 CFR 1.17(g) will be charged to Deposit Account No. 02-2448. Hence, item (1) is satisfied.

With regard to item (2), applicants have submitted a statement of the last known address of the non-signing inventor. Hence, item (2) is satisfied.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.


With regard to item (4), applicants have provided a statement by Mr. Hiroshi Yagi, who is a person having firsthand knowledge of the facts recited in the statement. Specifically, applicants have provided a copy of an "undeliverable" envelope mailed by Mr. Hiroshi Yagi to non-signing inventor Takashi Toya. Mr. Hiroshi Yagi further states that a "[t]elephone number search was done by calling '104', which is a telephone directory service in Japan, and Mr. TOYA was not located." However, from the evidence submitted it is not clear what constitutes "undeliverable" mail under the Japanese postal system. For example, the mailed envelope may have required the signature of non-signing inventor Takashi Toya and when Mr. Toya did not sign for receipt of the envelope, the mail was returned to sender as "undeliverable." Furthermore, an English translation of the Japanese writing on the envelope would be helpful to understand what the Japanese postal system stamped on the envelope. Therefore, the evidence submitted to show that inventor Takashi Toya cannot be reached is insufficient.

With regard to applicants' statement that the surcharge for late filing of a declaration has been paid with the filing of the instant application on 14 April 2006, it is noted that the transmittal letter filed 14 April 2006 indicates a \$130 fee for a late submission of an English translation. Because applicants have timely provided an English translation, the \$130 fee paid for the late submission of an English translation will be transferred as payment for the late filing of the declaration.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Takashi Toya, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.



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